

By: Burnam

H.B. No. 3894

A BILL TO BE ENTITLED

AN ACT

relating to the use of hand-counted paper ballots

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sec. 32.033, Election Code, is amended by amending Subsection (b) to read as follows:

(b) Except as provided by Subsection (c), the presiding judge shall appoint at least two clerks in addition to the alternate presiding judge for each precinct in each election and may appoint as many additional clerks, within the prescribed limit, as are necessary for the proper conduct of the election.

Sec. 32.034, Election Code, is amended by amending Subsection (b) and (c) to read as follows:

(b) The county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election may, not later than the 25th day before a general election or the 10th day before a special election to which Subsection (a) applies, submit to a presiding judge a list containing the names of at least two persons who are eligible for appointment as a clerk. If two ~~one~~ timely lists are ~~list is~~ submitted, the presiding judge shall appoint at least one clerk from each ~~the~~ list, except as provided by Subsection (c).

(c) If only two ~~one~~ additional clerks are ~~clerk is~~ to be appointed for an election in which the alternate presiding judge

1 will serve as a clerk, the two additional clerks [~~clerk~~] shall be
2 appointed from the lists [~~list~~] of [~~a~~] political parties [~~party~~]
3 with which neither the presiding judge nor the alternate judge are
4 [~~is~~] affiliated or aligned, if such lists are [~~a list is~~] submitted.
5 If three [~~two~~] such lists are submitted, the presiding judge shall
6 decide from which lists [~~list~~] the appointments [~~appointment~~] will
7 be made. If such lists are [~~a list is~~] not submitted, the presiding
8 judge is not required to make appointments [~~an appointment~~] from
9 any list.

10 Sec. 32.035, Election Code, is amended by amending Subsection
11 (b) to read as follows:

12 (b) A home-rule city charter may not provide for fewer than
13 four [~~three~~] election officers for each election precinct.

14 Sec. 42.006, Election Code, is amended by amending Subsection
15 (a) to read as follows and repealing Subsection (d):

16 (a) Except as otherwise provided by this section, a county
17 election precinct must contain at least 100 but not more than 2,000
18 [~~5,000~~] registered voters.

19 (d) [~~In a county in which a voting system has been adopted~~
20 ~~for use in the general election for state and county officers, the~~
21 ~~maximum number of registered voters a precinct may contain is~~
22 ~~5,000.~~]

23 Sec. 42.008, Election Code, is amended by amending Subsection
24 (a) to read as follows:

25 (a) In a special election for which use of county election
26 precincts is required, the commissioners court may consolidate, on
27 the recommendation of the county election board, two or more county

1 election precincts into a single precinct if the polling place is
2 located so it will adequately serve the voters of the consolidated
3 precinct and contains the permissible number of voters.

4 Sec. 42.009, Election Code, is amended to read as follows:

5 The county executive committee of a political party holding a
6 primary election may order two or more county election precincts
7 consolidated into a single precinct if:

8 (1) the polling place is located so it will adequately
9 serve the voters of the consolidated precinct [~~, and~~] and contains
10 the permissible number of voters.

11 (2) at least one consolidated precinct is situated
12 wholly within each commissioners precinct.

13 Sec. 42.061, Election Code, is amended by adding Subsection
14 (d) to read as follows:

15 (d) The election precincts established for an election
16 ordered by an authority of a political subdivision other than a
17 county shall locate the precincts so they will adequately serve the
18 voters of each precinct and contain the permissible number of
19 voters as cited in Section 42.006.

20 Sec. 61.005, Election Code, is amended by adding Subsection
21 (d) to read as follows:

22 (d) In addition to Subsection (b), a video recording device,
23 procured and provided by the appropriate authority to the presiding
24 judge in every polling place, shall record a full unobstructed view
25 of the ballots, ballot boxes, and envelopes used for provisional
26 ballots from the time the polls open for voting until the final
27 precinct totals are posted on the exterior face of the primary

1 public entrance door of the polling place.

2 Sec. 61.012, Election Code, is amended by amending Subsection
3 (a) and adding Subsection (c) to read as follows and repealing
4 Subsection (b):

5 (a) ~~[Not later than January 1, 2006, each]~~ Each polling
6 place must provide at least one voting station that:

7 (1) complies with Section 504 of the federal
8 Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its
9 subsequent amendments, ~~[and]~~ Title II of the federal Americans with
10 Disabilities Act (42 U.S.C. Section 12131 et seq.) and its
11 subsequent amendments and Section 301(a)(3) of the federal Help
12 America Vote Act of 2002 and its subsequent amendments; and

13 (2) provides a practical and effective means for
14 voters with physical disabilities to privately and independently
15 mark and cast a secret ballot, including a provisional ballot under
16 Section 63.011.

17 (c) A polling place may provide for voters with physical
18 disabilities either:

19 (1) an electronic paper ballot marker machine approved
20 for use by the Secretary of State that produces a paper ballot
21 similar in appearance to the other paper ballots provided at the
22 polling place for non-disabled voters, or

23 (2) a non-electronic, voter-assist device approved
24 for used by the Secretary of State that uses a paper ballot that is
25 the same as, or similar in appearance to, the other paper ballots
26 provided at the polling place for non-disabled voters.

27 Sec. 63.011, Election Code, is amended by adding Subsection

(f) to read as follows:

(f) The casting of a provisional ballot complies with Sec. 302(a) of the federal Help America Vote Act of 2002 and its subsequent amendments.

Sec. 65.001, Election Code, is amended to read:

At each polling place, the ballots shall be counted by one or more teams of election officers assigned by the presiding judge. Each team must consist of four [~~two or more~~] election officers.

Sec. 65.005, Election Code, is amended by amending Subsections (a) and (c) and by adding Subsections (d), (e) and (f) to read:

(a) One member of the counting team shall examine each ballot and clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. A second member of the counting team shall be able to simultaneously read and observe the same examined ballot as the name or measure is being announced in order to verify that the correct name or measure has been announced. The third member [~~other members~~] of the counting team shall record the votes on the tally lists as they are announced. The fourth member of the counting team shall be able to simultaneously read and observe the same tally lists as the name or measure is being recorded in order to verify that the correct name or measure has been recorded on all lists. [~~The other members of the counting team shall record the votes on the tally lists as they are announced.~~]

(c) On completing the count, the [~~each~~] member of the counting team assigned to record [~~tally~~] votes shall compute the

1 total number of votes recorded [~~tallied~~] on each tally [~~the~~] list
2 the member has kept and enter the totals on each [~~the~~] tally list.
3 After verifying that the three tally lists are in agreement, the
4 recording [~~each counting~~] officer shall sign each [~~the~~] list that
5 the officer has kept. The two team members designated as observers
6 shall both be able to simultaneously read and observe the computing
7 and entering the totals onto the tally lists and the signing of each
8 list.

9 (d) The presiding judge shall assign, if possible, the tasks
10 of the counting team so that:

11 (1) the vote announcer and the vote recorder are of
12 different political parties and

13 (2) each observer is of a different political party
14 than the team member they are assigned to observe.

15 (e) The county election commission shall consider
16 implementing alternate hand-counted paper ballot voting materials
17 and methods such as, but not limited to, color-coded perforated
18 paper ballots and the sort and stack team counting method. Before
19 implementation of an alternate material or method, the county
20 election commission shall receive whatever approval is required
21 from the Secretary of State.

22 (f) Any interested citizen may silently observe the opening
23 of the ballot box, the counting of the votes and the final computing
24 of the precinct results from a position in the polling place that is
25 not disruptive to the work of the election officials.

26 Sec. 65.014, Election Code, shall be amended by amending
27 Subsection (c) to read as follows:

1 (c) The returns shall be prepared as an original and four
2 [~~three~~] copies, and on completing the returns, the presiding judge
3 shall sign each one to certify its accuracy.

4 Chapter 66, Election Code, is amended by adding Sec. 66.063
5 to read:

6 Sec. 66.063. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5 must
7 contain:

8 (1) a signed copy of the precinct returns properly
9 placed inside resealable, waterproof and totally transparent
10 sleeves, each one large enough to display a single unfolded page of
11 the precinct results. Each page of the precinct returns shall be
12 placed inside a separate sleeve.

13 Sec. 66.025, Election Code, is amended by amending Subsection
14 to read as follows:

15 (a) Ballot box no. 3 must contain:

16 (1) the voted ballots;
17 (2) a copy of the precinct returns;
18 (3) a tally list; [~~and~~]
19 (4) a copy of the poll list; and
20 (5) all original video footage recorded that day at
21 the polling place.

22 Sec. 66.003, Election Code, is amended by amending
23 Subsections (a) and (b) to read as follows:

24 (a) Five [~~Four~~] envelopes shall be furnished to each polling
25 place for use in assembling and distributing the precinct election
26 records.

27 (b) The envelopes shall be labeled and addressed as follows:

1 (1) "Envelope No. 1," addressed to the presiding
2 officer of the local canvassing authority;

3 (2) "Envelope No. 2," addressed to the general
4 custodian of election records;

5 (3) "Envelope No. 3," addressed to the presiding
6 judge; ~~and~~

7 (4) "Envelope No. 4," addressed to the voter
8 registrar; and

9 (5) "Envelope No. 5," addressed to the citizens of
10 Texas.

11 Sec. 66.051 is amended by adding Subsections (e), (f), (g)
12 and (h) to read as follows:

13 (e) The presiding judge shall take envelope No. 5 to the
14 public entrance through which voters entered the polling place
15 earlier that same day to:

16 (1) remove the sleeve-protected signed copy of the
17 precinct returns from the envelope,

18 (2) securely fasten each page of the precinct returns
19 to the outside surface of the door at a height no greater than 6
20 feet, and

21 (3) make certain that every page is separately posted,
22 easily read and can be documented by any citizen.

23 (f) This posting is the moment at which the precinct records
24 become public information.

25 (g) The posted precinct returns shall remain posted on the
26 polling place voter entrance door for a period of 24 hours and shall
27 not be removed, torn, defaced or in any way altered during that

1 period of time.

2 (h) The failure to post the precinct returns or to alter
3 them once they are posted is a felony.

4 Sec. 66.057, Election Code, is amended by repealing
5 Subsection (a).

6 Sec. 81.003, Election Code, is repealed.

7 Sec. 85.032, Election Code, is amended by amending
8 subsection (b) to read as follows:

9 (b) The ballot box in which voters deposit their marked
10 early voting ballots must have two locks, each with a different key,
11 and must be designed and constructed so that the box can be sealed
12 to detect any unauthorized opening of the box and that the ballot
13 slot can be sealed to prevent any unauthorized deposit in the box.
14 The seals for the boxes must be serially numbered for each election.
15 ~~[The procedures prescribed by Sections 127.064, 127.065, 127.066,~~
16 ~~and 127.068 governing the use of sealed ballot boxes in electronic~~
17 ~~voting system elections apply to the use of sealed ballot boxes~~
18 ~~under this title to the extent those procedures can be made~~
19 ~~applicable, with references to the central counting station being~~
20 ~~applied to the early voting ballot board.]~~ The secretary of state
21 shall prescribe any procedures necessary to implement the use of
22 sealed ballot boxes in early voting.

23 Sec. 85.033, Election Code, is repealed.

24 Sec. 87.023, Election Code, is repealed.

25 Sec. 87.024, Election Code, is repealed.

26 Sec. 87.026, Election Code, is amended to read:

27 Sec. 87.026. CITIZENS WELCOMED ~~[BYSTANDERS EXCLUDED]~~. Any

1 interested citizen may be in the meeting place of an early voting
2 ballot board during the time of the and must silently observe the
3 board's operations from a position in the meeting place that is not
4 disruptive to the work of the early voting ballot board. [~~Except as~~
5 ~~permitted by this code, a person may not be in the meeting place of~~
6 ~~an early voting ballot board during the time of the board's~~
7 ~~operations.~~]

8 Sec. 87.063, Election Code, is amended by repealing
9 Subsection (b).

10 SUBCHAPTER F, Election Code, is repealed.

11 Sec. 111.005, Election Code, is amended by repealing
12 Subsection (c)

13 Sec. 111.006, Election Code, is repealed

14 TITLE 8. VOTING SYSTEMS, Election Code, is repealed.